



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC - 4 2015

William J. McGinley, Esquire
Ann M. Donaldson, Esquire
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113

Re: MUR 6840
Citizens for Cochran *et al.*

Dear Mr. McGinley and Ms. Donaldson:

On June 18, 2014, the Federal Election Commission notified your clients, Citizens for Cochran and John M. Robinson in his official capacity as treasurer, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on November 19, 2015, voted to dismiss this matter. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact Kamau Philbert, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler", is written over a horizontal line.

Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Citizens for Cochran
 and John M. Robinson in his
 official capacity as treasurer

MUR: 6840

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission, *see* 52 U.S.C. § 30109(a)(1) (formerly 2 U.S.C. § 437g(a)(1)), as amended, alleging that Citizens for Cochran and John M. Robinson in his official capacity as treasurer ("Cochran Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by accepting an in-kind contribution from All Citizens for Mississippi ("All Citizens"), an independent expenditure only political committee ("IEOPC"), by coordinating with All Citizens on a newspaper advertisement that All Citizens ran to support Senator Thad Cochran's re-election in 2014.¹

The Commission dismisses the allegation that the Cochran Committee violated the Act.

II. FACTS

On May 29, 2014, four days before Mississippi's June 3, 2014, Republican primary election, All Citizens disseminated a full-page advertisement in The Mississippi Link newspaper that advocated Senator Thad Cochran's re-election to the United States Senate.² *See* Compl. at Exhibit 1. The top third (approximately) of the advertisement has a photograph of Cochran on

¹ Complainant filed an improperly signed Complaint on June 2, 2014, before All Citizens' registration was processed by the Commission. The Complaint was later re-filed with a proper signature on June 13, 2014. A few days later, Complainant supplemented the Complaint with public information about the Statement of Organization that All Citizens had filed with the Commission. *See* Comp. Supp. (filed June 17, 2014).

² The Mississippi Link is a small weekly African American owned newspaper published in Jackson, MS. All Citizens Resp. at 2, 3 (filed July 16, 2014); *see* Compl. at 1.

the right-hand side with the text "VOTE June 3rd," "Thad For Mississippi," and "Serving All Mississippians" on the left. The remainder of the advertisement describes Cochran's legislative record and accomplishments and ends with the following statement:

The decision on who is going to be our next senator is going to be made in the republican primary. We are asking democrats to cross over and vote in the republican primary to ensure our community's interest is heard.

The bottom of the advertisement includes a disclaimer stating that it was "Paid for by All Citizens for Mississippi."

According to records submitted by All Citizens, it paid The Mississippi Link \$800 on June 6, 2014, to publish the advertisement.³ All Citizens Resp. at 3 (filed July 16, 2014). Specifically, All Citizens provided a copy of the newspaper advertisement rate sheet, the invoice, and its \$800 payment check to run the advertisement. *Id.*, Exs. B-D. All Citizens also states that the advertisement was designed by Kehinde Gaynor, a full-time independent graphic designer, who owns a graphic design company. *Id.* at 2. All Citizens does not, however, specify the amount that it allegedly paid Gaynor to design the advertisement, and no such amount is discernible from All Citizens' disclosed payments. Although All Citizens disclosed a \$225 disbursement on June 16, 2015 to Gaynor for "Brochures," that payment appears related to its get-out-the-vote activities. See All Citizens 2014 Amended July Quarterly Report (filed Jan. 12, 2015).

³ All Citizens disclosed a total of \$27,575.71 in independent expenditures supporting Cochran during the 2014 Republican primary and runoff elections. See All Citizens 2014 Amended July Quarterly Report, Sch. E. (filed Jan. 12, 2015); All Citizens 24/48 Hour Report of Independent Expenditures (July 29, 2014). The \$800 disbursement to The Mississippi Link for print advertisement was All Citizens' only reported disbursement for Mississippi's June 3, 2014 Republican primary election. All Citizens disbursed the remaining \$26,775.71 between June 11 and 21, for the June 24, 2014 runoff election.

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All Citizens states that the advertisement was designed independently, without any collusion, participation, or cooperation with the Cochran Committee. All Citizens Resp. at 5-6 (filed July 16, 2014). According to All Citizens, it obtained the photograph of Cochran used in the advertisement directly from the Cochran Committee's campaign website. *Id.* at 2, 5. Indeed, the photograph in the advertisement appears identical to a photograph from the biography section of the Cochran's campaign website. *See* Compl. at Exhibit 4. The campaign website also includes biographical and other information about Cochran, photographs of Cochran, the logo/slogan "Thad For Mississippi," and a quotation that includes the phrase "I will continue focusing on representing all Mississippians." *Id.*

The Cochran Committee denies any involvement with the advertisement and asserts that Complainant has provided no information to the contrary. Cochran Committee Resp. at 1 (filed Aug. 6, 2014). The Cochran Committee requests that the Commission find no reason to believe as to it and dismiss the Complaint.

III. LEGAL ANALYSIS

Complainant alleges that the Cochran Committee accepted an in-kind contribution from All Citizens by coordinating with All Citizens on the advertisement, in violation of the Act. Compl. at 4. Complainant provides no additional information other than the presence of Cochran's campaign photograph in the advertisement to support the coordination allegation.

Due to the *de minimis* cost of the advertisement at issue in this case, the Commission concludes that pursuing this matter further would not be an efficient use of the Commission's resources. Accordingly, the Commission exercises its prosecutorial discretion to dismiss the allegations that the Cochran Committee violated the Act. *See Heckler v. Cheney*, 470 U.S. 821 (1985).